

O'HARE PARNAGIAN LLP

20 VESEY STREET, SUITE 300

NEW YORK, NY 10007

(212) 425-1401

FAX: (212) 425-1421

www.ohareparnagian.com

WESTCHESTER OFFICE
700 WHITE PLAINS ROAD, SUITE 255
SCARSDALE, NY 10583-5013
(914) 725-3632
FAX: (914) 725-3639

USDC-SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 9/18/19

September 17, 2019

Via ECF

The Honorable Ronnie Abrams
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: Raptor Trading Systems, Inc. v. Beth, et al., No. 16-CV-3430 (RA)
Wallach, et al. v. Lardos, et al., No. 16-CV-5392 (RA)

Dear Judge Abrams:

We represent Michael Wallach and David Beth in the above-referenced actions and write with the consent of counsel for Raptor Trading Systems, Inc. (“Raptor”), Theodoros Lardos, Mark Hinman, Nelson Ignacio, and Alejandro Gil.

On August 30, 2019, Your Honor issued an Order in both actions scheduling a post-discovery conference for October 10, 2019. Your Honor also directed the parties to submit a letter “updating the Court on the status of the case and what efforts the parties have made to settle the action” one week prior to the conference, *i.e.*, by October 3. Given the intervening deadline for summary judgment motions set by Magistrate Judge Freeman, the parties believe it is appropriate to submit this letter prior to October 3.

I. Settlement Efforts

The parties have periodically engaged in settlement discussions, including within the past few weeks, but have not been able to reach a resolution. Earlier this year, Magistrate Judge Freeman offered to assist the parties with settlement discussions, but the parties respectfully declined in their March 12, 2019 letter to Magistrate Judge Freeman.

II. Status of the Actions

A. Discovery

Discovery on liability issues has been completed. On July 11, 2019, Your Honor issued an Order rejecting Wallach and Beth’s objections to Magistrate Judge Freeman’s April 6,

O'HARE PARNAGIAN LLP

The Honorable Ronnie Abrams
September 17, 2019
Page 2

2018 discovery order regarding certain privilege issues.

As agreed among the parties and as the Court has previously been apprised, damages discovery, including expert discovery (which will focus on damages) was abated pending summary judgment motions on liability. As the parties explained in their March 12, 2019 letter to Magistrate Judge Freeman, they anticipate the filing of summary judgment motions on liability in both actions (discussed below), and do not believe that expert discovery and other damages discovery would be an efficient use of their resources given that the anticipated summary judgment motions will inform the extent of necessary damages discovery.

As further set forth in their March 12 letter, the parties reserve all of their rights to take expert and other damages discovery after the anticipated summary judgment motions are decided.

On August 27, 2019, Magistrate Judge Freeman issued an Order in the *Raptor* Action granting Wallach and Beth's motion to amend their counterclaims against Raptor. In her Order, Magistrate Judge Freeman found, *inter alia*, that the amendment "would not give rise to a need for additional discovery." Wallach and Beth filed their Second Amended Counterclaims and Answer to Second Amended Complaint on August 28, 2019, and Raptor filed its answer to the second amended counterclaims on September 11, 2019.

B. Summary Judgment

In her August 27 Order, Magistrate Judge Freeman ordered the parties to file motions for summary judgment within 30 days absent further Order of the Court. Accordingly, motions for summary judgment are currently due on September 26, 2019, prior to the post-discovery conference.¹ The parties respectfully request a short extension of time of that deadline to October 4, 2019 and the following briefing schedule: motions for summary judgment and supporting papers shall be filed on or before October 4, 2019; opposition papers shall be filed on or before November 1, 2019; and reply papers shall be filed on or before November 21, 2019. This is the first request for an extension of time and briefing schedule.

Application granted. The parties shall adhere to the briefing schedule proposed in this letter which will also apply to the related action (16-CV-5392).

SO ORDERED.


Ronnie Abrams, U.S.D.J.
September 18, 2019

Respectfully,

Robert A. O'Hare Jr.

Robert A. O'Hare Jr.

¹ Although Magistrate Judge Freeman's August 27 Order was only filed in the *Raptor* Action, we assume that the deadline applies to both actions.